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NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

Administrative Action

HOWARD MARSHAL BEZOZA, M.D. License No: MA37212

FINAL ORDER OF DISCIPLINE

TO PRACTICE MEDICINE AND SURGERY : IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINQINGS OF FACT

1. Respondent, Howard Marshal Bezoza, M.D., License No. MA 37212, is a physician licensed in the State of New Jersey. As a consequence of Respondent's failure to submit his biennial renewal in 1991, Respondent's license to practice medicine and surgery in the State of New Jersey was automatically suspended pursuant to



N.J.S.A. 45:9-6.1, which allows for reinstatement upon payment of certain fees.

On or about February 18, 2003, a Determination and Order 2. of the Hearing Committee was entered by the New York State Department of Health, State Board for Professional Conduct ("New York Board"), as a result of a Hearing held on December 4, 2002. The Respondent made no appearance at the hearing and was not represented by counsel. Specifically, Respondent was charged with committing thirty specifications of misconduct, including allegations of negligence, incompetence, gross negligence, gross incompetence, excessive treatment, fraudulent practice and failure to maintain accurate medical records. The Hearing Committee sustained the First, Second, Fourth, Fifth, Sixth, and Seventh Specifications of the Statement of Charges as they relate to Paragraphs A and A1-9 and Paragraphs B and B1-7 of the factual allegations which pertain to Respondent practicing the profession of medicine with gross negligence. Further, the Hearing Committee sustained the Eighth, Ninth, Eleventh, Twelfth, Thirteenth and Fourteenth Specifications of the Statement of Charges as they relate to Paragraphs A and Al-9. Paragraphs B and BL-7, Paragraphs C and C1-4, Paragraphs D and D1-8, Paragraphs E and E1-6, Paragraphs F and F1-10, and Paragraphs G and G1-5 of the factual allegations which pertain to Respondent practicing the profession of medicine with gross incompetence. Also sustained as the Fifteenth Specification of the Statement of Charges which relates to Paragraphs A and A1-9; B and 31-7; C and CI-4; D and D1-8; E and E1-6; F and F1-10 and /or G and G1-5 of the factual allegations which pertain to Respondent practicing the profession of medicine with negligence on more than one occasion. The Sixteenth Specification of the Statement of Charges was sustained as it relates to Paragraphs A and Al-9, Paragraphs B and B1-7, Paragraphs C and C1-4, Paragraphs D and D1-8, Paragraphs E and El-6, Paragraphs F and Fl-10 and Paragraphs G and GI-5 of the factual allegations which pertain to Respondent practicing the profession of medicine with incompetence on more than one occasion. The Seventeenth, Eighteenth, Twentieth and Twenty-Second Specifications of the Statement of Charges as they relate to Paragraphs A and A7-8, Paragraphs E and B3 and 5, Paragraphs C and C2-3, Paragraphs D and D4-7, Paragraphs F and F7-9, Paragraphs E and G3 of the factual allegations which pertain to the ordering of excessive treatment by Respondent were all sustained by the Hearing Committee. The Twenty-Third Specification, referring to Respondent practicing the profession fraudulently as alleged in Paragraphs H and H1 of the factual allegations, was sustained. The Hearing Committee also sustained the Twenty-Fourth, Twenty-Fifth, Twenty-Seventh, Twenty-Eighth, Twenty- Ninth and Thirtieth Specifications of the Statement of Charges as they relate to Paragraphs A and A9,

Paragraphs E and B7, Paragraphs C and C4, Paragraphs D and D8, Paragraphs E and E6, Paragraphs F and F10 and Paragraphs G and G5 of the factual allegations which pertain to professional misconduct by Respondent for failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

3. As a result of the foregoing, Respondent's license to practice medicine in the State of New York was revoked.

CONCLUSIONS OF LAW

- 1. The above New York action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(g) in that Respondent has had his authority to engage in the practice of medicine in the State of New York revoked.
- 2. The above action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(b) in that the New York Board made findings that Respondent has practiced the profession fraudulently by providing false and misleading statements in the Curriculum Vitae he provided to the Office of Professional Medical Conduct on or about July 1997.

- 3. The above action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(c) in that the New York Board made findings that Respondent has engaged in repeated acts of gross incompetence and gross negligence in practicing the profession of medicine.
- 4. The above action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(d) in that the New York Board made findings that Respondent has engaged in repeated acts of incompetence and negligence in practicing the profession of medicine.
- 5. The above action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(h) in that the New York Board made findings that Respondent failed to maintain a record for each patient as alleged in the Statement of Charges.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending Respondent's license to practice medicine and surgery in the State of New Jersey until such time as Respondent's New York medical license is reinstated was entered on May 15, 2003, and a copy was forwarded to Respondent's last known address by means of both regular and certified mail. The Provisional

Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons thereof.

Although the record reflects that the Provisional Order was served upon Respondent, no response has been received to date.

Accordingly the Board considered the matter, determined that further proceedings were not necessary and Provisional Order should be made final.

ACCORDINGLY, IT IS on this 1ST day of NOVEMBER, 2004, ORDERED that:

- 1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby suspended until such time as Respondent's New York medical license is reinstated,
- 2. Prior to resuming active practice in New Jersey,
 Respondent shall be required to appear before the Board or a
 committee thereof, to demonstrate fitness to resume practice, to

show that he has satisfied all requirements of any New York disposition, and any practice in this State prior to said appearance shall constitute grounds for the charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on Respondent's practice should his license be reinstated.

NEW JERSEY STATE BOARD OF

MEDICAL EXAMINERS

By:

Bernard Robins, M.D., F.A.C.P.

Board President

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10,2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information providedwill be maintained separately and wilt not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with ?he Board, as required by N.J.A.C. 13:45C-1 e?sea. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probatron or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, Suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no ease may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (I) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services a?the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place tor safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall *not* charge, receive or share in any fee for professionatservices rendered by him/herself or others while barred from engaging in the professionat practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professionat practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month periodfollowing the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the ticensee shall promptly provide the record without charge to the patient.

5. **Probation/Monitoring Conditions**

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

- (a) Monitoring of **practice** conditions **may** include, **but** is not **limited** to, **inspection** of the **professional** premises **and** equipment, **and** Inspection **and copying** of patient **records** (confidentiality of patient **identity shall** be **protected** by the **Board**) to verify compliance with the **Board** Order **and** accepted standards of practice.
- (b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available für public inspection. Should any inquiry be made concerning the status of a ticensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available tor public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probatien,
- Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13. if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United Stales, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order. a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to trme, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, ?heDivision or the Attorney General from disclosing any public document.